

## **REMARKS**

### ***Pending claims***

Claims 1 and 8 have been amended to more clearly point out and distinctly claim the invention. Support for the phrase “in the absence of vinylic monomer” can be found on page 3, second, third, and fourth paragraphs; on page 23, 3<sup>rd</sup> paragraph; and page 24, fourth paragraph. Support for the phrase “wherein said copolymer has a balanced composition of hydrophilic and hydrophobic units” can be found on page 11, lines 8-12. Five (5) claims (claims 1, 3, 4, 8, and 9) remain pending to be examined in this application through this Amendment.

### ***Claim Rejection under 35 USC §102***

Claims 1, 3-4, and 8-9 were rejected under 35 U.S.C 102 (b) as being anticipated by Müller (US Pat. No. 6,303,687). For the following reasons, the Examiner's rejection over claims 1, 3-4, 8, and 9 is respectfully traversed.

Applicants respectfully submit again that Müller *does not* disclose all the limitations of the invention as currently claimed.

It is true that Müller discloses a water-soluble crosslinkable polyvinyl alcohol, which meets one of the limitations of the invention, the component (a). Müller also discloses that as claimed in the invention (claims 3 and 4) the crosslinkable polyvinyl alcohol contains units of formula (I)-(V) (from col.2, line 31 to col.5, line 50) of claims 3 and 4. Müller further discloses that the crosslinkable polyvinyl alcohol contains, in addition to the units described above, modifier units (col.5, line 56 – col.6, line 67), units which in turn contains a bound photoinitiator (col.7, line 16 to col.8, line 64), “units containing crosslinkable groups bonded via urethane or further modifier groups bonded via urethane” (col.8, line 65 to col.8, line 52), “units containing a covalently bonded reactive dye radical” (col. 9, line to col. 1010, line 36). Applicants submit that, each of the above-listed units including the modifier units are integral parts of a water-soluble polyvinyl alcohol, as well understood by a person skilled in the art, and can constitutes **only** as further limitations to the water-soluble crosslinkable polyvinyl alcohol, i.e., defining the scope of the polyvivyl alcohol and nothing else.

It is also true that Müller (col. 14, line 10 to col. 15, line 13) discloses the hydrophobic monomers such as alkyl acrylate, acrylonitrile, etc (col. 14, lines 21-51) and hydrophilic monomers such as N-vinylpyrrolidone (col., 14, line 63)” (Office Action of June 22, 2006, page 3). But, what Müller teaches (col. 13., line 42 to col.15, line 14) is to directly use those

monomers as additional components, in addition to a crosslinkable polyvinyl alcohol as the main component, in a polymerizable material for making contact lenses. On col. 13, lines 42-62, Müller states:

The process for the preparation of the novel crosslinked polymers comprises, for example, crosslinking, in particular photocrosslinking, a novel crosslinkable polymer, in particular in essentially pure form, i.e., for example, after a single or repeated ultrafiltration, in particular in aqueous solution, in the presence or absence of an additional vinylic comonomer.

The vinylic comonomer which can additionally be used in accordance with the invention in the photocrosslinking can be hydrophilic, hydrophobic or a mixture of hydrophobic and hydrophilic vinylic monomers. Suitable vinylic monomers include, in particular, those which are usually used in the production of contact lenses. The term "hydrophilic vinylic monomer" is taken to mean a monomer which, as a homopolymer, typically gives a polymer which is soluble in water or is capable of absorbing at least 10% by weight of water. Analogously, the term "hydrophobic vinylic monomer" is taken to mean a monomer which, as a homopolymer, typically gives a polymer which is insoluble in water or is capable of absorbing less than 10 per cent by weight of water. [Emphasis added]

Nothing in claim 1 specifies that a polymerizable material comprises a vinylic monomer as an individual component. Instead, a polymerizable material of Applicants' invention contains a copolymer (not monomers) in addition to a water-soluble crosslinkable polyvinyl alcohol. Monomers are not copolymers. It is well established that a copolymer is the polymerization product of at least two different monomers, i.e., containing units derived from at least two different monomers. Monomers can be used as starting materials for making a copolymer and then are incorporated as units of the resultant copolymer. The examiner must recognize that monomers are not direct limitations to a polymerizable material in pending claims, but instead they are direct limitations to a copolymer which is a direct limitation to the polymerizable material. Applicants use monomers to more specifically define (or specify) what a copolymer must be, as claimed by Applicants as their invention. Applicants expressly specified that a polymerizable must comprise a copolymer with specific limitations associated with monomers for making the copolymer. Müller **does not** teach nor disclose that those monomers are used to prepare a copolymer which in turn is used as one of the individual components of a polymerizable material. However, to expedite the prosecution of this application, Applicants have incorporated in claim 1 a disclaimer excluding vinylic monomers from the polymerizable material ("in the absence of vinylic monomer").

Furthermore, Applicants cannot find any evidence in Müller that discloses anything about a copolymer other than a water-soluble crosslinkable polyvinyl alcohol, anything about **a copolymer** which is more specifically defined by its limiting elements, "wherein said copolymer has a balanced composition of hydrophilic and hydrophobic units, wherein the hydrophilic units are derived from the group consisting of hydroxy-substituted alkylmethacrylate, hydroxy-substituted alkylacrylate, N-vinyl-lactams, N,N-dialkyl-

methacrylamide, and a mixture thereof; wherein the hydrophobic units are derived from the group consisting of a C<sub>1</sub>-C<sub>18</sub>-alkylacrylate, a C<sub>1</sub>-C<sub>18</sub>-alkylmethacrylates, a di-C<sub>1</sub>-C<sub>7</sub> alkylamino-C<sub>1</sub>-C<sub>7</sub> alkylacrylate, an acrylonitrile, a methacrylonitrile, a vinyl-C<sub>1</sub>-C<sub>18</sub>-alkanoate, a C<sub>2</sub>-C<sub>18</sub>-alkenes, a C<sub>2</sub>-C<sub>18</sub>-halo-alkenes, styrene, a C<sub>1</sub>-C<sub>6</sub>-alkylstyrene, a vinylalkylether in which the alkyl moiety has 1 to 6 carbon atoms, a C<sub>2</sub>-C<sub>10</sub>-perfluoralkylacrylate, a C<sub>2</sub>-C<sub>10</sub>-perfluoralkylmethacrylates, an acryloxyalkylsiloxane, a methacryloxy-alkylsiloxane, glycidyl methacrylate, butoxyethylacrylate, a mixture thereof, wherein the percentage of the hydrophobic units of the copolymer is sufficient high to impart at least one desired physical property to said ophthalmic device, wherein the percentage of the hydrophilic units of the copolymer is sufficient high to render the copolymer miscible with the water-soluble polyvinyl alcohol." Further, Müller does not disclose other limiting elements of the invention, i.e., "wherein component (b) is presented in the polymerizable material in an amount sufficient to improve one or more physical properties of the ophthalmic device made from the polymerizable material, wherein the one or more physical properties are selected from the group consisting of stress at break (N/mm<sup>2</sup>), percentage of elongation at break, toughness or energy to break (N-mm), and susceptibility to fracture."

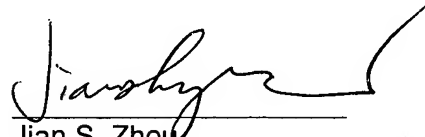
In sum, Applicants submit that the invention as currently claimed is patentable over Müller, because Müller does not disclose not suggest anything about all of the limitations of the invention as currently claimed. Therefore, Applicants respectfully request withdrawal of this rejection.

### **CONCLUSION**

In view of the foregoing and in conclusion, Applicants submit that the pending claims are now in conditions for allowance. Applicants request reconsideration and withdrawal of the rejections set-forth in the Office Action. Applicants further request consideration of claims 5-6 and 10-11 to additional species which are written in dependent form, the generic claims upon which they depend are allowable.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,

  
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